

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Irvine Neuro Rehabilitation
Petitioner

File No. 21-1878

v

Auto Club Group Insurance Association
Respondent

Issued and entered
this 11th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 20, 2021, Irvine Neuro Rehabilitation (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Association (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner four bill denials on November 29, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on January 5, 2022. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on January 5, 2022 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 14, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 26, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatment rendered on October 1 and 4, 2021. The Current Procedural Terminology (CPT) code at issue is 97116, which is described as gait training. In its denial letters, the Respondent referenced Official Disability Guidelines (ODG) for physical therapy and stated that the treatment rendered by the Petitioner exceeded guideline recommendations.

With its appeal request, the Petitioner submitted medical documentation which identified the injured person's diagnoses as multiple fractures of the pelvis with unstable disruption of the pelvic ring with sequela, fractured left tibia, dislocated left hip, acquired absence of left hip joint, traumatic brain injury (TBI), and acquired unequal limb length. The Petitioner noted that the injured person was involved in a motor vehicle accident in June of 2002.

The Petitioner's request for an appeal stated:

Our clinicians are board-certified and licensed by the State of Michigan...We uphold a standard of care for our clients that meets guidelines established for our industry by our accrediting institutions and by the federal government...The complexity of [the injured person's] neurologic and orthopedic injuries requires ongoing skilled therapy to address deficits with balance, gait, strength, neuromuscular and cognitive function. [The injured person's] severe safety limitations due to multiple and complex injury-related deficits establish a vital need for skilled therapeutic services to reduce the risk of additional functional decline leading to increased burden of medical care...[T]he delivery of professional, skilled, therapeutic services is an essential factor in managing his chronic condition adequately and is a necessary and ethical provision of his care.

In its reply, the Respondent reaffirmed its position and referenced the American College of Occupational and Environmental Medicine (ACOEM) guidelines for traumatic brain injury and ODG guidelines relating to physical and occupational therapy for head conditions. The Respondent noted that the injured person received "well over 150 therapy treatments" since the date of injury. The Respondent further stated that "opportunity has been given to establish an activity and exercise program."

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physician who is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on ACOEM guidelines and medical literature for its recommendation.

The IRO reviewer explained that the ACOEM guidelines and current medical literature support that “rehabilitation in the acute and early periods after TBI is generally appropriate to address issues in the many domains that are affected by TBI such as sensorium, sleep and wake cycles, vision, cognition, communication, behavior, safety, swallowing, nutritional intake, motor tone, autonomic function, self-care, and mobility.” The IRO reviewer further stated that “this acute and early rehabilitation can be critical to stabilize TBI survivors for community-based care or longer-term institutional settings.” The IRO reviewer noted that functional deficits due to TBI can include cognitive deficits, safety awareness deficits, and behavioral problems and explained that “the benefits of formal rehabilitation in the long term in this clinical setting have been and remain unclear particularly with respect to promoting overall function.”

The IRO reviewer opined that the injured person “has been undergoing physical therapy with poor carryover, poor tolerance of activities, and no documented clinically significant functional gains.” Based on the medical documentation submitted, the IRO reviewer noted that the injured person requires 24 hour per day assistance due to cognitive and physical deficits, uses a wheelchair pushed by others for mobility, and “is not a functional ambulator.” The IRO reviewer further stated:

[A]lthough the injured person had severe ongoing functional problems during the time period in review, the therapy under review was not medically necessary ... There was no need for or benefit derived from the therapy services under review ... The injured person had a very limited functional status and poor long term prognosis that were not being improved by physical therapy as of the time period in question ... The physical therapy services administered in this case were in excess of what would be considered appropriate in the medical literature and clinical practice guidelines.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatment provided to the injured person on October 1 and 4, 2021 were not medically necessary, and were overutilized in frequency or duration, in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated November 29, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford